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5
6 UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 SAN JOSE DIVISION – ECF PROGRAM
9

10 LISA M. KAY ALLISON ,

11 Plaintiff,

12 v.

13 COUNTY OF SANTA CRUZ; SANTA
CRUZ COUNTY SHERIFF PHIL
WOWAK; LORIE A. GEARHART; C.
LOGAN; S BUTEHER; B. AMET; E.
SOTO; MONTE LEE WILSON; J
REGGIO; S.BELIZ; JEREMY
VERNINKY; TWENTY UNKNOWN
COUNTY SHERIFFS DEPUTIES,
CORRECTIONAL OFFICERS, MEDICAL
PERSONNEL; CALIFORNIA FORENSIC
MEDICAL GROUP,

19 Defendants.

CASE #

COMPLAINT FOR DAMAGES FOR
VIOLATION OF CIVIL RIGHTS

DEMAND FOR JURY TRIAL

21 Plaintiff alleges as follows:

JURISDICTION AND VENUE

23 1. This action arises under the Civil Rights Act of 1871 (42 U.S.C. Sections
24 1983 and 1988) and the Eighth Amendment to the Constitution of the United States. This
25 Court has jurisdiction of the federal claims under 28 U.S.C. Section 1331, 1332, 1343(3)
26 1343(4), 2201, and 2202.

27 2. Venue is proper in the Northern District of California, San Jose Division,
28 pursuant to 28 U.S.C. § 1391, in that the subject matter of this action arose in this district, all

1 defendants are subject to personal jurisdiction in this district, and there is no district in which
 2 the action may otherwise be brought.

3 **PARTIES**

4 3. Plaintiff LISA M. KAY ALLISON, (“plaintiff”) is, and at all relevant times
 5 herein was, a resident of the County of SANTA CRUZ, State of California.

6 4. Defendant COUNTY OF SANTA CRUZ (hereinafter “COUNTY”) is a
 7 political subdivisions of the State of California.

8 5. PHIL WOWAK was at all relevant times, the Sheriff of the COUNTY.

9 6. LORIE A. GEARHART; C. LOGAN; S BUTEHER; B. AMET; E. SOTO;
 10 MONTE LEE WILSON; J REGGIO; S.BELIZ were at all relevant times COUNTY
 11 employees who were involved in plaintiffs medical evaluation and treatment at the COUNTY
 12 jail.

13 7. JEREMY VERNINKY was at all relevant times, COUNTY Chief Deputy
 14 and supervisor of the COUNTY corrections system.

15 8. TWENTY UNKNOWN COUNTY SHERIFFS DEPUTIES,
 16 CORRECTIONAL OFFICERS, MEDICAL PERSONNEL (collectively hereinafter referred to
 17 as the “OFFICERS”) were sheriffs deputies and/or correctional officers and/or other
 18 COUNTY personnel; in performing the acts alleged herein, these defendants were acting as
 19 agents of the COUNTY employed by the COUNTY and/or were acting individually, outside
 20 the course and scope of their employment; and, in performing all of the acts alleged herein,
 21 these defendants acted under color of state law and the statutes, ordinances, regulations,
 22 customs and usages of the COUNTY, and pursuant to the official policy, custom and practice
 23 of the COUNTY. These defendants are charged with enforcing state and local laws and
 24 additionally charged with knowledge and protection of citizens’ constitutional rights while
 25 enforcing such laws.

26 9. CALIFORNIA FORENSIC MEDICALGROUP is a for profit corporation
 27 contracted by the COUNTY to provide medical services to the inmates at the COUNTY jail.

28 10. The names and capacities of defendants TWENTY UNKNOWN COUNTY

SHERIFFS DEPUTIES, CORRECTIONAL OFFICERS, MEDICAL PERSONNEL are presently unknown to the plaintiff. Each of these unknown parties has acted as agent of or in concert with the named defendants in the matters referred to herein and is responsible in some manner for the damages suffered by plaintiffs. Plaintiff will amend this complaint to add the names and capacities of these defendants when ascertained.

11. In doing the things herein alleged, the defendants, and each of them, acted as the agent, servant, employee of the remaining defendants, and acted in concert with them

FACTS GIVING RISE TO THE CLAIMS FOR RELIEF

12. On May 3,2014, Plaintiff was arrested and admitted into custody at the Santa Cruz County Jail. Initially plaintiff informed the COUNTY intake OFFICER that she was mentally unstable, that she was on prescribed psychiatric drugs and needed to be evaluated by mental health and receive her psych meds before she was placed into the general population.

13. The COUNTY intake OFFICER was aware of plaintiff's delicate health and instead of sending plaintiff for evaluation, she told plaintiff that she would have to go into general population without an evaluation and that if plaintiff continued to insist, she would be punished and the OFFICER would make it "hell for her". The OFFICER told plaintiff she would be sorry for insisting on an evaluation and that OFFICERS would strip her naked and place her in a brightly lit room with only ½ of a mat to sleep on. The OFFICER told plaintiff she would not receive any of her prescribed psych medications and that the male guards would be watching her in her naked state.

14. When plaintiff still insisted she needed to go to the medical facility, the OFFICER told her that she had made her grave and would have to lay in it. The OFFICERS proceeded to strip plaintiff naked and search her and then placed her in a brightly lit room with only half a mat which, even as small as she could make herself, did not cover her buttocks or her back. Male OFFICERS were observing her around the clock.

15. Plaintiff became progressively ill and complained repeated to jail staff of symptoms including severe headaches and other physical complaints, including body aches,

1 nausea, vomiting and insomnia. Plaintiff asked for aspirin and OFFICERS refused her.
 2

3 16. On May 9, 2014, plaintiff complained of whole body aches that were
 4 worsening. Plaintiff was in excruciating pain and was begging the OFFICERS for help.
 5 OFFICERS refused to help. In fact, the OFFICERS became angry with her because plaintiff
 6 was vomiting and had lost control and urinated on herself repeatedly. On May 10, 2014,
 7 witnesses saw plaintiff having a seizure which lasted several minutes. It was during this time
 8 that plaintiff suffered her first stroke. Plaintiff's condition continued to deteriorate until she
 9 ultimately became completely unresponsive on May 13, 2014.

10 17. Finally on May 13, 2014, plaintiff was transported to the Emergency Room
 11 at Dominican Hospital in a coma. After numerous tests and exams including a CT scan, brain
 12 MRIs and Xrays, the doctors at Dominican determined that Plaintiff had a large infarction on
 13 the left side of her brain caused by a stroke that had been ignored by OFFICERS at the jail.

14 18. When plaintiff was returned to the jail, she had a second stroke which was
 15 ignored by the OFFICERS . Other inmates and a mental health nurse named "James" were
 16 pushing the emergency button to get help for plaintiff and the OFFICERS continued in their
 17 deliberate indifference to plaintiff's serious medical needs and told the others to just leave her
 18 alone and that plaintiff was faking it. The OFFICERS left plaintiff lying on the floor,
 19 unresponsive and barely breathing, very close to death. Finally "James" called 911 and she
 20 was rushed to the hospital by ambulance. After plaintiff arrived at Dominican she remained in
 21 a coma for 3 days. The doctors determined that plaintiff had suffered a second major stroke.

22 19. When Plaintiff awoke from the coma, she did not know who she was and
 23 was partially paralyzed and had lost vision in one eye. Plaintiff's symptoms continue to the
 24 date of this filing including inability to concentrate, read, drive a car, partial paralysis of her
 25 body and throat and many more serious injuries suffered as a result of the COUNTY's and
 26 OFFICERS failure to attend to her serious medical needs despite their actual knowledge of her
 27 such need.

28 **CLAIM FOR RELIEF**

VIOLATION OF CIVIL RIGHTS (Title 42 U.S.C. Section 1983)

1 **DUE PROCESS CLAUSE OF FOURTEENTH AMENDMENT**

2 20. Plaintiff realleges and incorporates herein by reference the allegations set
3 forth in paragraphs 1 through 19 of this complaint.

4 21. Defendants, as described herein before, were deliberately indifferent to
5 plaintiff's serious medical needs and inflicted unnecessary and wanton pain and suffering on
6 her which resulting in permanent injuries. Defendants herein acted under color of law to
7 deprive Plaintiff of her Fourteenth Amendment right to be free from deliberate indifference to
8 her serious medical needs

9 22. Plaintiff further alleges that COUNTY failed to properly train and supervise
10 its agents and employees to prevent the violation of clearly established constitutional rights,
11 and thereby maintained unlawful and illegal customs and policies which resulted in the
12 unlawful and unconstitutional treatment of plaintiff by its agents and employees.

13 23. As a direct and proximate result of the unlawful actions of defendants,
14 plaintiff sustained injuries and damages including, but not limited to pain, loss of mobility,
15 medical expenses, loss of income, as well as severe emotional distress, fear, anxiety,
16 embarrassment and humiliation, all to her general damage in an amount according to proof.
17 Defendants' failure to act is also the direct and proximate cause of plaintiff's future high risk
18 of seizures, strokes, heart attacks, falling, choking, and pneumonia among other maladies.

19 24. The conduct of the individual defendants as alleged in this complaint was
20 willful, malicious, oppressive and/or reckless and therefore plaintiff is entitled to punitive
21 damages according to proof.

22 25. Plaintiff has been compelled to engage the services of private counsel to
23 vindicate his rights under the law. Plaintiff is, therefore entitled to reasonable attorney's fees
24 pursuant to Title 42, United States Code § 1988.

26 **JURY TRIAL DEMAND**

27 28. Plaintiff demands a jury trial.

PRAAYER

WHEREFORE, plaintiff prays for judgment against the defendants, and each of them, as follows:

- A. General damages according to proof;
 - B. Punitive damages against the individual defendants according to proof;
 - C. Attorney's fees pursuant to statute;
 - D. Costs of suit; and
 - E. For such other and further relief as the court deems appropriate.

Dated: May 9, 2016

/s/ Kathleen E. Wells
KATHLEEN E. WELLS
Attorney for Plaintiff , LISA M. KAY ALLISON

**Kate Wells
and
Aaron
Lodge,
Attorneys
for plaintiff**